THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 13318 OF 1999

Dated: 24-10-2005

Between:

1. Govindas and Others …Petitioners

A N D

1. State of A.P. rep. by Joint Collector,

Hyderabad and Others …Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 13318 OF 1999

ORDER :

1. This writ petition is filed challenging the appellate order of the Joint Collector,

Hyderabad District-1st respondent vide Proceeding No. B2/2211/91, dated 08-04-1999 under A.P. (Telengana Area) Abolition of Inams Act, 1955 (hereafter referred to as "Inams Act" for brevity)

2. Mukund Das is the ancester of the writ petitioners. Their forefathers purchased Ac. 10-12 guntas comprising Survey Nos. 1,2,3 and 115 of Bagh Lingampally village, under a deed of sale from Smt. Umda Begum in the year 1261 Hijri equivalent to 1251 Fasli equivalent to 1840-41 A.D. Succession in favour of the petitioners forefathers was also granted by the Commissioner of Atiyat under his proceedings dated 08-05-1338 Fasli (i.e. 1927-28 AD). The sale in favour of the forefathers of the petitioners was described in succession proceedings as Zar Kharedi (i.e. purchased) long prior to the coming into force of the Inams Act. Thus the land became the patta land of the petitioners forefathers. They were cultivating the lands through their tenant by name Chottam Singh. The said Chottam Singh died in 1946 without leaving any legal heirs. Tulja Ram Singh and Ram Singh claiming to be legal heirs of Chottam Singh gave application to the Tahsildar for grant of succession in respect of the lands owned by Dwaraka Das. Tahsildar issued tenancy certificate in favour of Tuljiaram Singh and an appeal came to be filed by Dwaraka Das. It was pleaded by Dwaraka Das in the appeal that the provisions of Hyderabad Tenancy Agricultural Lands Act, 1950 do not apply to the land in view of Section 102 of the same Act. The appellate authority held by order dated 25-4-1953 vide File No. 398/87/1952 that the land in question stands out side the scope of Hyderabad Tenancy and Agricultural Lands Act, 1950. The relevant portion of the order passed by the Appellate Authority-Joint Collector in File No. 398/87/1952 reads as follows:

> "*There is no doubt whatsoever, that the land is situated within the Municipal limits of the city of Hyderabad and as the Hyderabad Tenancy and Agricultural Lands Act, 1950 does not apply to areas situated within the Municipal limits the order of the Tahsildar to issue the protected tenancy certificate is null and void. No orders can be given at this stage about the possession as that was not a point at issue before the Tahsildar, as may be seen the original application of Tuljaram Singh and others who only prayed for the issue of a protected tenancy certificate in their favour.*
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> *The appeal is, therefore, allowed".*

3. Aggrieved by the order of the appellate authority, Dwaraka Das and others filed revision before the Government. The revision filed by them came to be rejected on 28th July, 1956. The operative portion of the order passed in revision reads as follows:

> "*Aggrieved by his decision of the Tahsildar, an appeal was preferred by Dwarakdas and others before the collectors, after hearing the objections of the parties decided that the lands are situated within the Municipal limits and hence the Tenancy Act of 1950 does not apply to this case. The orders of the Tahsildar were set aside and with regard to possession, he held that no issue in respect of possession was under considereation of the Tahsildar.*
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> *Aggrieved by the second part of the decision of the Collector, Dwarka Das and others filed an appeal in the Board of Revenue. The Honourable Members, Board of Revenue, after hearing the party dismissed the appeal and held that the facts on record reveal that with regard to possession , there is nothing favourable or adverse in the decision of the Tahsildar. When the Court of original jurisdiction itself has not given any finding with regard to possession, no question in respect thereof arises at this stage.*
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> *Aggrieved by the above decision Dwarka Das and others submitted this revision petition.*
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> *File submitted. Arguments of the advocate of the parties heard. Facts on the face of the record perused. The Tenancy-Act does not apply to the lands situated within the Municipal limits. The suit for possession and eviction does not fall within the purview of the Revenue department. As such, the orders of the lower Courts are consequently correct.*
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> *Hence ordered that revision rejected.".*

4. Appellants-Govind Das and others filed application under Sec.4 of Inams Act for grant of Occupancy Rights in respect of Survey Nos. 1,2,3 and 115 admeasuring Ac. 10-12 guntas, situated at Bagh Lingampally. At the same time, Tuljaram Singh and five others also filed petition for grant of occupancy rights in respect of the self same land claiming as protected tenants. The appellants claimed that they are the Inamdars whereas Tuljaram Singh and others claimed that they are the protected

tenants of the lands. One Smt. Zainab Bee w/o late Fathe Mohammed also filed a petition for Occupancy Rights over an extent of 800 square yards in in Survey No.115. The Revenue Divisional Officer after necessary enquiries passed an order on 20-9-1976 granting Occupency Rights under Section 8 of the Act in favour of the Tuljaram Singh and Others. He has also granted Occupancy Rights to an extent of 0-7 guntas in Survey No.115 in favour of Smt. Zainab Bee. Assailing the orders Damodar Das-Inamdar preferred an appeal before the Collector and the same came to be allowed directing the Revenue Divisional Officer to conduct the enquiry afresh. Accordingly, the Revenue Divisional Officer, Hyderabad took up enquiry and passed an order on 24-1-1981 in File No. B/6661/80 whereby the Revenue Divisional Officer held that Tuljaram Singh and Man Singh are entitled to be registered as occupants under Section 8 of the Inams Act. The Revenue Divisional Officer had rejected the case of Smt. Zainab Bee as not proved. The operative portion of the order reads as follows:

" The documents filed by Tuljaram Singh and Man Singh issued on behalf of the inamdars from time to time find them and the Government record continuously shows the names of Tuljaram Singh and Man singh as cultivators have to be accepted. Therefore, Tuljaram Singh and Man singh are entitled under Section 8 of A.P. (TA) Inam Abolition, Act to be registered as occupants to the extent of 10.5 acres in S.Nos.1,2,3 and 115 of Bagh Lingampally. The claims of Zainabee is dismissed as not proved. Therefore, the Inamdars are entitled to be registered as occupants under section 4(1) to the extent of 800 square yards in S.No.115. the tenants have to pay the balance of compensation as already fixed by the Tahsildar in File No.A1/450/75."

The appellants once again carried the matter in appeal to the Collector, Hyderabad. The appellate authority passed order on 7-8-1982 in File No.B2/1597/81 confirming the order of the Revenue Divisional Officer. The appellate authority adopted the date of vesting as 1-11-1973. The appellants challenged the order of the Collector by filing W.P.No. 6158 of 1982. The said writ petition came to be allowed remanding the matter to the primary authority to adjudicate the entitlement of the parties for grant of occupancy rights taking the date of vesting as 20th July, 1955. The relevant portion of the order passed in W.P.No.6158 of 1982 reads as follows:

"*The lower Tribunal has taken the date of vesting as November, 1,1973 the date on which notification was issued. This Court in W.P.No.6042 of 1984 dt. 10-8-1988 held that the*

date of vesting is July,20,1955, the date on which A.P. (Telengana Area) Inam Abolition and conversion into Ryotwari Patta Act has come into force, therefore, the authority has to consider the entitlement of occupancy rights with reference to the date of vesting namely July,20, 1955 but not November, 1,1973.

5. As per the directions of this Court in W.P.No. 6158 of 1982, the Primary authority i.e. Revenue Divisional Officer, Hyderabad conducted enquiry afresh and passed order on 24-12-1990 in File No. B/3899/89. The relevant portion of the order passed by the Primary Authority i.e. Revenue Divisional Officer reads as follows:

"*In respect of payment of rentals to the inamdars/petitioners herein and receipts issued thereon by the Inamdars and their validity was not raised by the Petitioners/Inamdars earlier in any Court and now the petitioners plea is that all the receipts produced by respondents pertaining to rentals are forged and fabricated and are created with a malafide intention to defraud them. The contention whether the receipts are genuine or fabricated it is for the petitioners to approach before proper form to disprove the rental receipts issued by the Inamdars on record. This Court is concerned with regard to the possession and personal cultivation as required and mandatory under the provisions of A.P. (T.A.) Abolition of Inams Act, 1955 to consider the question of the entitlement of the eligible persons under appropriate status. The respondents have filed the receipts before the Inam Tribunal in the year 1976 and the petitioners have taken necessary steps for cancellation of the suits or any other remedy under Rules The scope of enquiry as per the Hon'ble High Court of A.P. is to consider the entitlement of Occupancy Rights with reference to the date of vesting. I.e. 20th July, 1955 but not November, 1, 1973 and as such remanded the matter to consider the application of the petitioners herein afresh and pass appropriate orders as per law. The respondents have filed the following Revenue Records to establish their possession and personal cultivation over the lands in question. They are as follows:*

Sl.No. Pahani

1. Pahani for the year 1346 Fasli

2. -do_ 1350 Fasli

3. -do- 1355 Fasli

4. -do- 1356 Fasli

5. -do- 1353 A.D.

6. -do- 1955 1956 A.D.

7. -do- 1956 1957 A.D.

. -do- 1957 1958 A.D.

. -do- 1958-60 1959-60

8 . -do- 1959-60

9. -do- 1967-68

10. -do- 1968-69

11. -do- 1969-70

12. -do- 1970-71

13. -do- 1971-72

16. -do- 1972-73

1973-74

1974-75

In view of the above entries in the Revenue records, it is clear that the Respondents are in possession and enjoyment of the lands in question much earlier to date of vesting i.e. 20-7-1955, and the balance of conveyance goes in favour of respondents to prove possession over the lands in question in respect of the rent receipts, it is clear for the petitioners to disprove through proper remedy before the proper forum to cancel them. Unless the entries in the Revenue records establishing the possessory rights of the respondents are mala fide, the request of petitioners for grant of Occupancy Rights certificate deserves no consideration as such the request of the petitioners for grant of occupancy rights certificate is accordingly rejected.

Since, the respondents proved their possession and personal cultivation over the land in question immediately before the date of vesting and subsequent year, I held that the occupancy rights certificate be issued in favour of Sarasri Tulja Ram Singh and Man Singh over Sy.Nos. 1,2 and 3 total

admeasuring Ac. 4-20 of Bagh Lingampally village, Musheerabad Mandal, Hyderabad District under Section 7 of the Act in respect of Sy.No 115 of the same village an extent of Ac. 3-16 the occupancy rights to be issued under Section 8 of the Act in favour of the said respondents subject to the payment of premium as required under the Act.

6. Assailing the order of the primary authority, the appellants filed an appeal before the Joint Collector, Hyderabad under Sec.24 of Inams Act, 1955. The appellate Authority took the appeal on file, heard the parties and recorded a finding that the respondents were in possession of the land on 20th July, 1955 as well as on 1-11-1973 and thereby dismissed the appeal of the appellants. The contention advanced by the appellants before the appellate authority are:

1. That the lands in question are service Inam lands and as such the question of issuing protection Tenancy certificate does not arise.

2. That the entries made in the pahanies with regard to the possession of the respondents cannot be relied upon because the same have been made in connivance with the respondents.

3. That the RDO should have seen that the respondents were not in any way related to Chottam Singh the deceased protected tenant because he died issueless and respondents are mere farm servants.

4. That the receipts of payments of rents produced by the respondents are forged one and this aspect has not been looked into properly by the RDO.

5. That RDO should have seen that they have been cultivating lands as on 10-7-1955 through hired labour and farm servants therefore, they were in possession of the land.

6. That there is no relation ship between the Inamdars i.e. appellants and the respondents as a Tenant of Inamdar

7. That the resondent did not produce a single receipt proving the payment of rent either by Chottam Singh or Mukund Das.

8. That in the absence of the tenancy the question of issuing occupancy rights certificate either under Sec. 7or 8 of the Abolition of Inam Act does not arise.

7. The appellate authority on considering the material on record and on hearing the counsel for the petitioners dismissed the appeal by order dated 8-4-1999.

8. The principal contention advanced by the appellants before the appellate authority was that they were in possession of the property as on the date of vesting. Their contention came to be negatived by the appellate authority. The relevant portion of the order passed by the appellate authority reads as follows:

> "*As is seen from the records the appellants as contended by them have not proved their personal cultivation of the land in question and also their possession as on the date of vesting either 20th July, 1955 or 1.11.1973. It is contended by the appellants that they have been cultivating the land through their servants or hired labour. But, no documentarye vidence was produced to establish this fact. On the other hand the respondents have proved before the RDO Hyderabad the primary authority, that they have been in possession right from 1346 F to 1974-1975. They filed copies of Revenue Records covering the said period and thus proved their possession and cultivation. This period covers both the dates i.e. 20th July, 1955 and 1-11-1973. This means that the respondents have been in possession of the land on 20th July, 1955 as well as on 1-11-1973.*
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> *The appellants herein had not submitted any fresh evidence before me to establish their claim. The issues now raised by them in the grounds of appeal have already been considered by the lower Court and also by this office in appeal case No. B2/1597/81 and have not been accepted. The important point which is now raised by the appellant in appeal is that the lands are service Inam lands. But, they have not submitted any Atiyath document to prove this fact. They have submitted a Xerox copy of succession statement before the RDO in case No.B/6661/80. They have not submitted any Muntakab. The File No. 71/58 F of succession case has been taken as Muntakab No., However, according to the succession*

statement the Inam is 'Zar Khareed" and not service Inam. Therefore, the contention of the appellants that the lands areservice Inam land is in correct and misleading.

In view of the foregoing facts it is proved that the respondents herein are entitled to get the occupancy rights in respect of Sy.Nos. 1,2,3 total measuring Ac. 4-20 gts, and Sy.No.115 admeasuring Ac. 5-16 gts situated at Baghlingampally village, under Section 7 and 8 respectively of the A.P. (T.A.) Abolition of Inam Act, 1955. Hence, the order under appeal passed by the RDO Dt. 24-12-1990 is confirmed and accordingly the appeal is dismissed."

Hence, this writ petition by the appellants.

9. Pending the appeal, 4th appellant-Prabhu Charan Das died and his Legal Representatives came on record as Appellants No. 8 to 11 as per order dated 20-8-2005 passed in WPMP No. 5828 of 2005.

10. One A. Chotta Singh came on record as Respondent No.5 in Writ Petition as per order dated 23-9-2005 passed in WPMP No. 299/2003. He claims to have filed O.S.No. 485 of 1995 (old O.S.No.384 of 2001) on the file of the XIV Additional Chief Judge, City Civil Court, Hyderabad for partition and separate possession of the lands in dispute apart from some other house properties against Tuljaram Singh and Man Singh, who are Respondents No. 3 and 4 in W.P.No. 6158 of 1982 . The suit ended in dismissal and he filed an appeal assailing the judgment and decree passed in O.S.No.485 of 1995.

11. Respondents 4 and 5 filed counter affidavit. The counter affidavit, in brief, is:

The judgment of Joint Collector questioned in the writ petition is a final judgment between the parties and there is no further legal remedy provided under the Inams Act, and thus the writ petition filed by the petitioners under Article 226 of the Constitution of India is not legal and proper. The appellate authority and original authority considered the material brought on record in the right perspective and refused to grant occupancy rights in favour of the petitioners and therefore, the concurrent findings recorded by both the authorities cannot disturbed by this Court in

exercise of powers under Article 226 of the Constitution of India. It is now settled law that date of vesting is 1-11-1973 on which date the entire provisions of A.P. (Telengana Area) Abolition of Inams Act came into force. The contention of the petitioners that the provisions of Andrha Pradesh (Telengana Area) Abolition of Inams Act, 1955 are not applicable to the land in question on the ground that it is 'zar kharidi' Inam Land cannot be sustained. Even the petitioners and their predecessors had assumed the land as Inam land and therefore they approached Commissioner (Atiyat) for grant of succession on the death of each Muntakhab holder for issuance of fresh Muntakhab. The petitioners or their fore fathers never claimed patta rights in respect of land in question, instead they admitted the land as Inam land and they approached the department of Atiyat for grant of succession. Because of the conduct of the petitioners and their fore fathers, the petitioners are estopped from pleading that the land is not Inam Land. Petitioners on their own accord approached the Inams Tribunals in 1975 claiming the land in question as Inam land. The order of the Land Reforms Tribunal, dated 24-3-1979 came to be set aside on 7-11-1979 directing the petitioners herein to approach the Revenue Divisional Officer, Hyderabad for their claim. The petitioners approached Revenue Divisional Officer, Hyderabad claiming to be Inamdars and persons in actual possession and therefore sought for grant of Inam patta. Chotam Singh and Balram Singh were cousins and they were members of the joint family. Balram Singh is the father of Respondents No. 3 and 4. Respondents 3 and 4 filed land revenue receipts and rent receipts to prove their possession over the land in question from Fasli to the year 1974-75 continuously. Chotam Singh is the paternal uncle of the respondents NO.3 and 4 and they constitute Hindu Joint Family and they are deemed to be joint protected tenants along with Chotam Singh under Section 34 of the A.P. (Telengana Area) Tenancy and Agricultural Lands Act, 1950. The Inam Abolition Act came into force to the extent of Sections 1 and 2 and part of Section 3 and Section 34 on 20-7-1955. The order of the Collector canceling the protected tenancy rights is illegal for want of Gazette Notification by the Government as contemplated under Section 102 (e) of the Act. Unless and until the Government issues Gazette Notification specifying certain lands situated within Municipal limits as reserved for urban, non agricultural or Industrial development purposes, the lands shall continue to be covered by A.P. (T.A.)Tenancy and Agricultural Lands Act, 1950. The petitioners filed application for grant of patta rights over the inam land vide application No. A1/2355/75 , on 23-4-1975 before the Revenue Divisional Officer, Hyderabad West Division and said

Revenue Divisional Officer granted patta rights in respect of the land in question to the petitioners on 23-4-1979. These respondents had filed an appeal being Appeal No. B3/14441/79 before the Collector, Ranga reddy District The appellate authority set aside the order of the Revenue Divisional Officer and directed Revenue Divisional Officer, Hyderabad to transfer the entire record relating to the application of the petitioners to the Revenue Divisional Officer, Hyderabad. On such transfer the Revenue Divisional Officer, Hyderabad, renumbered the case as Case NO. B/6661/80. The Revenue Divisional Officer, Hyderabad considered the claim of the petitioners as well as respondents 3 and 4 and on thorough enquiry rejected the claim of the petitioners for grant patta right and allowed the claim of the respondents for grant of occupancy patta rights by order dated 24-1-1981. Since the respondents No. 3 and 4 were in possession of the land on the date of vesting, the primary authority and the appellate authority are justified in granting occupancy rights in their favour and the orders of original authority and appellate authority need no interference by this Court in exercise of powers conferred under Article 226 of the Constitution of India. It is suffice to refer para 8(J) of the counter affidavit and it is thus:

> *"In reply to ground (j) , these respondents submit on advise that the petitioners filed writ Petition No. 6158 of 82 in this Hon'ble Court aggrieved by the first confirming order of the 1st respondent herein which declared these Respondents 3 and 4 as entitled for patta rights of the lands in question. These respondents submit that the petitioners in the said writ petition No. 6158 of 1982 have pleaded so many untenable grounds like the present one but ultimately were confined to request this Hon'ble Court to remand the matter to the Second Respondent herein to decide also as to who were in possession of the land sin question as on 20-7-1955. This Hon'ble Court accepted the said request on the sole and simple ground that this Hon'ble Court in another writ petition earlier declared that for granting and determining the patta rights of the persons described in Sections 4 to 8 the date of vesting is 20-7-1955. As the Respondents 1 & 2 in their first round of judgments noted 1-11-1973 as the date of vesting relevant for granting patta. Therefore, the Hon'ble High Court directed the Second Respondent herein to decide as to who is found in possession on 20-7-1955. It is submitted that this Judgment of this Hon'ble Court is found later on as not correct*

because in 1971 Supreme Court decided and declared that for grant of inam patta the relevant vesting date is 1-11-1973 and the same law has been followed by this Hon'ble Court later on through its various judgments. After the said remand, the second Respondent again decided and declared that these Respondents 3 and 4 only were found in possession not only on 20-7-1955 and on 1-11-1973 but also continuously from 1346 Fasli".

12. Heard Sri.Vilas V.Afzulpurkar, learned counsel for the petitioners, Sri.K.Pratap Reddy, learned Senior Counsel appearing for the respondents No.3 and 4 and Sri T. Jagadish, learned counsel appearing for 5th respondent.

13. Learned counsel appearing for the petitioners submits that the primary authority decided the case taking the date vesting as 20th July, 1955 as directed by this Court in W.P.No. 6158 of 1982 and since preposition of law laid down by this Court is found to be not correct in subsequent decision of this Court, the matter needs to be remanded to the primary authority to adjudicate upon the rights of the parties with reference to the correct date of vesting. What he means to say is that the date of vesting as per the Division Bench decisions of this Court for grant of occupancy rights is 1-11-1973 and therefore the primary authority is required to adjudicate the entitlement of the parties for occupancy rights over the land in question with reference to date of vesting on 1.11.1973. In support of his submissions, he placed reliance on the decision of our High Court in ***N.Sudershan Reddy Vs. Smt. Kannamma*.**

14. Learned Senior Counsel appearing for the respondents submits that the respondents No. 3 and 4 are in possession of the property both on 20-7-1955 as well as on 1-11-1973 and therefore, they are entitled for grant of occupancy rights under the provisions of Inams Act. He further submits that the primary authority as well as appellate authority has recorded a categorical finding with regard to possession of the respondents NO. 3 and 4 over the land on 20-7-1955 as well as on 1-11-1973 and the concurrent finding recorded by both the authorities needs no interference in exercise of power of this Court under Article 226 of the Constitution of India. He also submits that the order passed by the Revisional Authority in File

No.10/Tenancy Branch/Revision/1955 is ex-facia illegal since no notification has been issued as provided under Section 102 of the Tenancy Act excluding the land in dispute from the operations of the provisions of the Tenancy Act. In support of his submissions he placed reliance on ***Smt. Kannamma Vs.The Collector, Rangareddy District, B.Ramender Reddy Vs. The District Collector, Hyderabad District, Abdul Qaiyum Vs. S.Rathaiah, Mohd. Riazuddin Vs. Govt. of A.P. rep. By its Secretary, Revenue Department, Mir Sardar Ali Vs. Mandal Revenue Officer, G.Venkat Ram Reddy Vs. Najeebunnisa.***

15. It is not in dispute that the primary authority proceeded with the enquiry on the premise that he was required to adjudicate upon the issue in pursuance of the order passed by this Court in W.P.No.6158 of 1982. A direction in the writ petition No. 6158 of 1982 to the primary authority was to adjudicate the rights of the parties taking the date of vesting as 20-7-1955. Both the parties before the primary authority proceeded to establish their rights with specific understanding that they were required to be established their possession over the land in dispute as on 20-7-1955. The proposition of law laid down in W.P.No. 6158 of 1982 is found to be no more good law by the Division Bench judgment of our High Court in ***N.Sudershan Reddy's*** case 1st cited supra. It is well settled that the relevant date for grant of occupancy right under Sections 4 to 8 of the Inams Act is the date on which the Inam Provisions came into force i.e. 1-11-1973 in the State of Andhra Pradesh. It is suffice to refer para 25,26 and 27 of the cited judgment and it is thus;

> "*The learned Single Judge found that there were two decisions of the Supreme Court viz., Stateof Maharastra (AIR 1971 SC 1859) and Mohd. Shaukat Hussain Khan (AIR 1974 SC 1480), both of whichheld that there could be differed dates of vesting. The learned single judge, therefore, held that the decisions of this Court were per incurium; and therefore he need not refer the matter to a Divison Bench.*
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> *A Division Bench of this Court in which one of us (Sivaraman Nair, J.) was a member, had occasion to consider the same question in Rameander Reddy V. District Collector, Hyderabad District, (1993) 2 And.W.R. 84. The Bench came to the same conclusion after considering Lakshman Ambaji (AIR 1971 SC 1859) and Mohd. Shaukat HussainKhan (AIR 1974 SC 1488). We are of the opinion that the decisions of the learned single judges of this Court assuming that there was*

only one relevant date of vesting viz., 20-7-1955 is no longer good law. We therefore, overrule the decisions in Keshavulu V. Government of A.P. (1978 (1) 1980 (Lawyers Reference 295) and Narsimha Reddy V. Syed Aktar Ali (1988 (2) Andh LT 136) on the above point. For the reasons stated in the judgment in Ramender Reddy (1993 (2) Andh WR 84) cited above, we have to hold that the learned single judge was right in holding that there were two different dates of vesting viz., 20-7-1955 and 1-11-1973".

Counsel for the appellants submitted that even if petitioners had any right pursuant to the judgment in A.S.No.79 /63, that could not survive the date of vesting viz 1-11-1973. The learned Single Judge held that the provisions of Ss 4 to 8 of the Inam Abolition Act for registration of persons in possession of inam lands was unaffected by the date of vesting. He also held that S.33 of the Inams Abolition Act specifically saved the mutual rights and obligations of an Inamdar and his tenants to the extent to which they were not inconsistent with the express provisions of the Act. The rights which the petitioners had as tenants of the Inamdar could and therefore did continue even after 1-11-1973 by virtue of the above saving provisions. We hold that the learned single judge was right in the finding in this regard".

16. In ***G.Venkat Ram Reddy's case*** the Division Bench of this Court categorically held that right to get occupancy rights is not correlated to the vesting of imams in the Government. Therefore, even though all the imams vested in State as on 20th July, 1955, in case the inamdars or various types of persons mentioned in Sections, 5,6,7 and 8 were in possession of the land as on 1-11-1973, they would be entitled to get occupancy rights under the Act.

17. The very basis on which the primary authority proceeded to consider the claims of the parties is not in accordance with the proposition of law laid down by Division Bench of this Court in ***B.Ramender Reddy's case .***

18. Much emphasis has been laid by the learned Senior counsel that the appellate authority has taken into consideration both the dates and recorded a finding that the

respondents N. 3 and 4 are in possession of the property on both the dates and therefore, the matter need not be remanded to primary authority. I express my inability to accede to the contention since primary authority proceeded on the preposition of law which is found to be not correct in view of the decision of the Division Bench of this Court referred above.

19. In the result, writ petition is allowed and the orders passed by the Joint Collector as well as primary authority are set aside and the matter is remanded back to the primary authority for fresh disposal keeping in view the date of vesting as 1-11-1973. The primary authority has to dispose of the case as expeditiously as possible within three months from the date of receipt of a copy of this order. No order as to costs.

B.Seshasayana Reddy,J.

24th October, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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W.P.No. 13318 OF 1999

24th October, 2005.